

Remarks

I. The Charges are Still Incorrect.

The Amendment B response to the prior action mailed December 11, 2003 had been timely filed on February 11, 5 2004, and the postcard enclosed with the response was received by Applicant. On March 9, 2004, Applicant's attorney called the Examiner and left a message informing Examiner that the response had been filed and inquiring about the status of the application. On April 20, 2004, 10 Applicant's attorney again called Examiner and Examiner's supervisor and left messages inquiring about the status of the application.

Applicant had become concerned that no paper from the USPTO had been forthcoming and the 6 month period for 15 response was about to end. As a result, on May 18, Applicants filed a notice of appeal to provide an additional two months for Examiner to respond to Amendment B.

On May 31, Applicant's attorney again called 20 Examiner's supervisor and was informed that Amendment B was missing from the file. On June 1, Applicant's attorney faxed a copy of Amendment B and the copy of the received postcard indicating that the office had received Amendment

B on February 17, 2004. On July 9th and again on July 12, Applicant's attorney's paralegal called Examiner, first being informed that the advisory action had been mailed two weeks prior and then requesting that a copy of the advisory
5 action be faxed to Applicant's attorney's office because it had not been received by Applicant's attorney. Examiner's advisory action was received by fax on July 13, 2004 and requested an additional search.

The notice of appeal is now rendered moot by the RCE.

10 On 10/4/04, the amount of the charges was refunded. However, Applicant's attorney's deposit account was charged again for \$950 on 10/4/04 using fee code 1253 that should not have been charged, and the entire amount of such charges, \$950, should be refunded to that account. There
15 was no extension fee due, because Examiner had not mailed an advisory action as of the mail date of the notice of appeal. As a result, under MPEP 706.07(f) (Paragraph G), no extension fee was due. The amount of \$950 corresponding to the old fee code 1253 should be refunded in full.

20 II. The Claims Should be Allowed

In paragraphs 1-15, Examiner rejected claims 1-31 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,330,605 issued to Christensen in view of U.S.

Patent 6,366,947 issued to Kavner. This rejection is respectfully traversed.

Claim 1 recites, "receiving the first request for the web page; and transmitting, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp." Claims 2-13 depend from claim 1 and contain all of its features.

Claim 14 recites, "computer readable program code devices configured to cause a computer to receive the first request for the web page; and computer readable program code devices configured to cause a computer to transmit, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp." Claims 15-26 depend from claim 14 and contain all of its features.

These claimed features receive a first a request for a web page, and transmit to the device that sent the request, a command to send a second request for that web page and a timestamp.

Applicants are perplexed by Examiner's rejection of the claim as it does not appear to show the features of the claim. If Examiner is understood, Examiner is using

Christensen to show the first request for a web page, which Christensen says is sent to a proxy (col. 4, line 61), which Christensen says runs on a server (col. 5, lines 6-9), from a client (col. 4, line 62). This would make the client the device from which the request was received. It then appears that Examiner is then attempting to use Kavner's GET <resource> request and/or connect command to show "transmitting, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp".

The problem with Examiner's proposed combination is that it doesn't show the features of the claimed invention. If the GET <resource> request is being used to show the purported transmission, it not only isn't being made to the device from which the request was received, it isn't even being sent to the same type of device from which the request was received. The GET <resource> request is sent from a browser, which runs on a client, to a server (Col. 4, lines 22-24). This means it is sent to a server, not a client. If Christensen's command is sent from a client to a server, and Kavner's command is sent from a client to the server, there is no way that Kavner's command could be sent to the same device from which the command was received, because that device is a client, not a server.

Examiner states at paragraph 16 of the Official Action that the "GET <resource> command, which Kavner clearly states is sent from a client to a server, could be interpreted by one skilled in the art could be

5 [interpreted] as a command to send a request if a certain value changes, such value being assumed to mean the date and time the file was last modified on the server. But Examiner's interpretation is not the case: the command is sent from the client to the server and the server then
10 sends a response if the time the file was last modified on the server is different from the If-Modified-Since tag. In any event, the GET <resource> is sent from the client to the server: however it is interpreted, the direction is to the server, not the opposite direction, which would be
15 required if the first command is sent from the client to the server as Examiner suggests.

Similarly, Kavner's connect command is sent from a client to a server. Kavner states at column 9, lines 17 to
20 that the web browser implements the steps of Figure 3 when downloading a resource from a server. The connect command is described as a step of Figure 3, and "initiates the connection between the client and the server" (Col. 9, lines 40-41). Not only is the connect command issued from

the client to the server, but it also doesn't contain the timestamp.

If the request of Christensen is sent from a client to a server, and the GET <resource> request and connect commands of Kavner is sent from a client to a server, where is the command to send a second request and a timestamp being sent from a server to a client? It isn't, and so the claims are patentably distinguishable over Kavner and Christensen, either alone or in combination.

Therefore, claims 1 and 14 are patentably distinguishable over Kavner and Christensen, either alone or in combination. Because claims 2-13 depend from claim 1 and claims 15-26 depend from claim 14, claims 1-26 are patentably distinguishable over Kavner and Christensen, either alone or in combination.

As amended, claim 27 recites, "a cookie/applet generator having an input coupled to the user request router output for receiving the signal, the cookie/applet generator for providing, to a device from which the first request was received, via a first output coupled to an apparatus output a first indicator of at least one time to send a second request for the web page" (emphasis added).

Claims 28-31 depend from claim 27 and contain all of its features.

These claimed features provide an indicator of at least one time to send a second request for a web page.

5 Kavner, column 4, lines 44-59 uses a cache to display a web page and simultaneously sends a request for an updated page, but Kavner doesn't send a time as claimed. Because Kavner does not send an indicator of the time to send the request as claimed, Kavner is restricted to sending the
10 request for the updated page simultaneously with the display of the page. Thus, claim 27 is patentably distinguishable over Kavner. Furthermore, the claim was previously amended to note that the first indicator of at least one time to send a second request for the web page
15 was sent to a device from which the first request was received, and Examiner has not asserted that Christensen does this. Examiner raises Christensen, column 4, lines 43-56, but there is nothing there that even resembles a cookie applet generator, and nothing that sends the
20 indicator of the at least one time as claimed.

Examiner had previously pointed to Christensen's use of timers, but Christensen uses the timer, it doesn't provide the value from such timer to a device from which

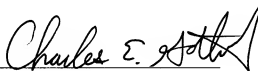
the first request was received, as would be required to anticipate claim 27. At paragraph 17 of the Official Action, Examiner provided a summary of Applicant's argument, but never responded to it. Thus, claim 27 is
5 patentably distinguishable over Kavner and Christensen. Because claims 28-31 depend from claim 27, claims 27-31 are patentably distinguishable over Kavner and Christensen, either alone or in combination.

Claims 1-31 are patenably distinguishable over the
10 cited references. Favorable action is solicited.

Respectfully submitted,

January 5, 2005

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